

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**DYAMONE WHITE; DERRICK
SIMMONS; TY PINKINS;
CONSTANCE OLIVIA SLAUGHTER
HARVEY-BURWELL**

PLAINTIFFS

VS.

CIVIL ACTION NO. 4:22-cv-00062-SA-JMV

**STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES
*in his official capacity as Governor of
Mississippi; LYNN FITCH in her
official capacity as Attorney General of
Mississippi; MICHAEL WATSON in
his official capacity as Secretary of
State of Mississippi***

DEFENDANTS

**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION TO
OVERRULE DEFENDANTS' OBJECTIONS AND COMPEL DISCOVERY [DKT. #74]**

COME NOW the defendants, State Board of Election Commissioners, Tate Reeves, in his official capacity as Governor of Mississippi, Lynn Fitch, in her official capacity as Attorney General of Mississippi, and Michael Watson, in his official capacity as Secretary of State of Mississippi, (hereinafter collectively “Defendants”) by and through counsel, and file this their response in opposition to Plaintiffs’ motion to overrule Defendants’ objections and compel discovery [Dkt. #74], and in support thereof would show unto the Court the following:

1. Plaintiffs’ motion to overrule Defendants’ objections and compel discovery should be denied because (1) the information Plaintiffs seek, to the extent it exists, is presumably in the State Archives—it is not in the possession, custody, or control of Defendants; (2) the information Plaintiffs seek regarding judicial appointments is not relevant and thus is not discoverable; and (3)

Defendants have no obligation to assume the unreasonable burden of investigating the actions of prior administrations of state-wide elected officers.

2. In this now fourth attempt to invalidate Mississippi's Supreme Court districts, Plaintiffs seek to compel Defendants to respond to six interrogatories with information they do not have and cannot reasonably obtain, and much of which is irrelevant in any event.

3. In addition to producing over 7,700 pages of responsive documents to date, Defendants have responded to all six disputed interrogatories with information that is reasonably available to their respective administrations. In so doing, Defendants have discharged their obligations under FRCP 33.

4. Having failed to present any controlling authority requiring Defendants to do more than they have done already, Plaintiffs cannot meet their burden to compel discovery.

5. Defendants adopt and incorporate by reference, as if fully and completely set forth herein, the arguments and authorities set forth in the *Memorandum of Authorities in Support of Defendants' Response in Opposition to Plaintiffs' Motion to Overrule Defendants' Objections and Compel Discovery* [Dkt. #74], being filed contemporaneously herewith.

6. On the basis of the grounds asserted herein and as further set forth in the aforementioned memorandum of authorities, Plaintiffs' motion should be denied.

7. In further support of their oppositional response, Defendants submit the following:

Exhibit "A" Order, *McCray v. Miss. State Bd. of Election Comm'rs*
Exhibit "B" Order, *N.A.A.C.P. v. Fordice*
Exhibit "C" USDOJ Preclearance Letter
Exhibit "D" MDAH Records Control Schedule No. 283
Exhibit "E" Defendants' Responses to Plaintiffs' Requests for Production of Documents

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that the Court make and enter its Order denying Plaintiffs' motion to overrule Defendants' objections and compel discovery [Dkt. #74].

THIS the 14th day of November, 2022.

Respectfully submitted,

STATE BOARD OF ELECTION
COMMISSIONERS, TATE REEVES, IN HIS
OFFICIAL CAPACITY AS GOVERNOR OF
MISSISSIPPI, LYNN FITCH, IN HER OFFICIAL
CAPACITY AS ATTORNEY GENERAL OF
MISSISSIPPI, AND MICHAEL WATSON, IN HIS
OFFICIAL CAPACITY AS SECRETARY OF
STATE OF MISSISSIPPI, DEFENDANTS

By: LYNN FITCH, ATTORNEY GENERAL
STATE OF MISSISSIPPI

By: s/Rex M. Shannon III
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TATE REEVES, IN HIS OFFICIAL CAPACITY
AS GOVERNOR OF MISSISSIPPI, LYNN
FITCH, IN HER OFFICIAL CAPACITY AS
ATTORNEY GENERAL OF MISSISSIPPI, AND
MICHAEL WATSON, IN HIS OFFICIAL
CAPACITY AS SECRETARY OF STATE OF
MISSISSIPPI

CERTIFICATE OF SERVICE

I, Rex M. Shannon III, Special Assistant Attorney General and one of the attorneys for the above-named State Defendants, do hereby certify that I have this date caused to be filed with the Clerk of the Court a true and correct copy of the above and foregoing via the Court's ECF filing system, which sent notification of such filing to all counsel of record.

THIS the 14th day of November, 2022.

s/Rex M. Shannon III
REX M. SHANNON III